

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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PETER J. GOULD and JAMES A. EVANGELIST, :

:
Plaintiffs, :

----- v- :
:

CLAUDIA M. BARNES; AUTO-OWNERS :
INSURANCE COMPANY, INC.; and DOES 1-20, :

:
Defendants. :

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ORDER

15 Civ. 7965 (GBD) (SN)

GEORGE B. DANIELS, United States District Judge:

On October 8, 2015, Plaintiffs Peter J. Gould and James A. Evangelist, proceeding *pro se*, initiated this action against Defendants by filing a complaint. (ECF No. 1) On October 16, 2015 the matter was referred to Magistrate Judge Sarah Netburn. (ECF No. 2.) Magistrate Judge Netburn ordered Plaintiffs on January 15, 2016 to serve the Complaint on Defendants within 120 days of the issuance of summons, or by February 5, 2016. (ECF No. 5.) Magistrate Judge Netburn also ordered Plaintiffs to submit a letter regarding the status of service by January 29, 2016. (*Id.*) Plaintiffs did not submit a status letter, nor is there any indication they served Defendants on or by February 5, 2016. On February 17, 2016, Magistrate Judge Netburn ordered Plaintiffs to show cause on or before March 2, 2016 as to why this Court should not dismiss the instant action without prejudice for failure to serve Defendants, pursuant to Federal Rule of Civil Procedure 4(m). (ECF No. 6.) Plaintiffs failed to comply with Magistrate Judge Netburn's March 2, 2016 Order.

Before this Court is Magistrate Judge Netburn's March 7, 2016 Report and Recommendation ("Report"), (ECF No. 7), in which she recommended that this Court dismiss the instant action without prejudice, pursuant to Federal Rule of Civil Procedure 41(b) for failure to prosecute. (*See* Report at 3.) Magistrate Judge Netburn advised the parties that failure to file

timely objections to the Report would constitute a waiver of those objections on appeal. (Report at 4); *see also* 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b). As of the date of this Order, no objection to the Report has been filed.

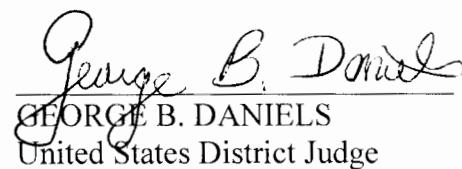
This Court may accept, reject, or modify, in whole or in part, the findings set forth in the Report. 28 U.S.C. § 636(b)(1)(C). When no party files objections to a Report, the Court may adopt the Report if “there is no clear error on the face of the record.” *Adee Motor Cars, LLC v. Amato*, 388 F. Supp. 2d 250, 253 (S.D.N.Y. 2005) (quoting *Nelson*, 618 F. Supp. at 1189); *Wilds v. United Parcel Service, Inc.*, 262 F.Supp.2d 163, 169 (S.D.N.Y. 2003) (“To accept the report and recommendation of a magistrate, to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record” (internal citations and quotation marks omitted).).

The Court is satisfied that the Report contains no clear error and adopts the Report in its entirety. The Complaint is DISMISSED without prejudice.

The Clerk of Court is directed to close this case.

Dated: New York, New York
March 21, 2016

SO ORDERED:



GEORGE B. DANIELS
United States District Judge